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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,414	03/12/2004	Carline Smith	090-003	7051
7550 Ward & Olivo Suite 300 382 Springfield Avenue Summit, NJ 07901			EXAMINER VETTER, DANIEL	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 12/03/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/800,414

Applicant(s)

SMITH, CARLINE

Examiner

DANIEL P. VETTER

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Status of the Claims

1. Claims 1-11 were previously pending in this application. Claims 1 and 4 were amended, and new claims 12-22 were added in the reply filed August 28, 2008. Claims 1-22 are currently pending in this application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 28, 2008 has been entered.

Election/Restrictions

3. Newly submitted claims 12-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions I (claims 1-11) and II (claims 12-22) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as acquiring payment information. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to

provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 12-22 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

6. Applicant's arguments with respect to the rejections made under § 103(a) have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese, et al., U.S. Pat. Pub. No. 2001/0016825 (Reference A of the PTO-892 part of paper no. 20070406) in view of Block, et al., U.S. Pat. Pub. No. 2003/0055689 (Reference A of the attached PTO-892).

9. As per claim 1, Pugliese teaches a method of providing automated reservations comprising the steps of: interacting with a user via a system (¶¶ 0011); authenticating said user utilizing one or more forms of identification data provided by said user to said system to access an awards account (¶¶ 0011, 74); acquiring itinerary data from said user (¶¶ 0067); querying an itinerary database with said itinerary data (¶¶ 0040, 0081); providing to said user a plurality of itineraries (¶¶ 0040); allowing said user to select an itinerary from said plurality of itineraries (¶¶ 0040); querying an awards database to determine if said user has sufficient awards in said awards account for an itinerary (¶¶ 0074-75); and acquiring payment information from said user for said selected itinerary (¶¶ 0040). Examiner notes that the determination of sufficient awards in Pugliese is not necessarily for the already selected itinerary; however this difference is only found in a statement of the intended use of the querying step. A statement of intended use is only given patentable weight to the extent that it imparts structural differences to the invention from the prior art. Because the teachings of Pugliese are capable of performing the intended use of the querying step (see ¶¶ 0074), it meets the limitations of

the claim. Pugliese does not teach that the system used to interact with a user is an automated interactive voice response system; which is taught by Block (§ 0010). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself—that is, in the substitution of the automated interactive voice response system in Block for the system used to interact with the user taught by Pugliese. Both systems share similar characteristics and functions. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate an automated interactive voice response system because it is merely the simple substitution of one known element for another that could be implemented through routine engineering producing predictable results.

10. As per claim 2, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches confirming said selected itinerary (§ 0068).

11. As per claim 3, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches placing said selected itinerary on hold (§ 0067); and providing said user a reference number indicative of said itinerary (Abstract).

12. As per claim 4, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches said user interacts with said system utilizing vocal responses (§§ 0011, 40 - use of a telephone). Block further teaches that the system is an automated interactive voice response system (§ 0010), which would have been obvious to incorporate for the same reasons set forth above with respect to claim 1.

13. As per claim 5, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches assigning seats to said user for said selected itinerary (§ 0051).

14. As per claim 7, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches said itinerary data includes one or more of the group consisting of a departure date, an arrival date, a departure time, an arrival

time, departure location, arrival destination, number of passengers, class of service, and seating preference (§ 0067).

15. As per claim 8, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches said identification data is biometric data (§ 0068).

16. As per claim 9, Pugliese in view of Block teaches the method of claim 8 as described above. Block further teaches that the identification data is voice data (§ 0223). It would have been prima facie obvious to incorporate voice data as identification data because it is the substitution of one type of identification data for another (i.e., the types taught by Pugliese), that could have been implemented through routine engineering producing predictable results.

17. As per claim 10, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches wherein said identification data is at least one of the group consisting of a user's name, a personal identification number, a social security number, a telephone number, a birth date, and a frequent flyer number (§ 0044).

18. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese, et al. in view of Block, et al. as applied to claim 1 above, further in view of Trader, et al., U.S. Pat. No. 5,854,837 (Reference B of the PTO-892 part of paper no. 20070406).

19. As per claim 6, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese further teaches that the user speaks to an operator (§ 0040) but does not explicitly teach that the user is transferred to the operator upon request. Trader teaches the user is transferred to the operator upon request (column 1, line 23). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the user is transferred to the operator upon request in order to give the user additional help or information (as taught by Trader; column 1, line 24). Moreover, this is merely a combination of old elements. In the combination no element would have served a function other than it already did independently, and one skilled in

the art would have recognized that the combination could be implemented through routine engineering producing predictable results.

20. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese, et al. in view of Block, et al. as applied to claim 1 above, further in view of Lambert, et al., U.S. Pat. No. 6,282,649 (Reference D of the PTO-892 part of paper no. 20070406).

21. As per claim 11, Pugliese in view of Block teaches the method of claim 1 as described above. Pugliese in view of Block does not explicitly teach said awards database is a look-up table. Lambert teaches said awards database is a look-up table (column 1, line 58). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate said awards database is a look-up table in order to identify a user and his/her access authority (as taught by Lambert; column 1, lines 58-60). Moreover, this is merely the simple substitution of one type of database (the LUT in Lambert) for another (the database in Pugliese), that could have been implemented through routine engineering producing predictable results.

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL P. VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W Hayes/

Supervisory Patent Examiner, Art Unit 3628